

LEGISLATIVE BILL 530

Approved by the Governor June 4, 2013

Introduced by Dubas, 34.

FOR AN ACT relating to foster care; to amend sections 43-4202, 43-4203, and 43-4213, Revised Statutes Cumulative Supplement, 2012; to state intent; to provide duties for the Division of Children and Family Services of the Department of Health and Human Services and the Nebraska Children's Commission; to change a termination date; to create the Foster Care Reimbursement Rate Committee; to provide powers and duties; to change provisions relating to stipends for foster parents; to eliminate a committee; to harmonize provisions; to repeal the original sections; to outright repeal section 43-4212, Revised Statutes Cumulative Supplement, 2012; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) The Legislature (a) finds that it was the intent of sections 43-4208 to 43-4213 to provide bridge funding to bring Nebraska's foster care reimbursement rates in line with foster care reimbursement rates in the rest of the country and (b) recognizes the importance of a stable payment to foster parents to ensure that families are able to budget for needs while caring for foster children.

(2) The Legislature further finds that Nebraska's foster care system has begun to stabilize. In recognition of the essential contributions of foster parents and foster care providers to foster children in Nebraska, it is the intent of the Legislature to continue existing contractual arrangements for payment to ensure the continued stabilization of the foster care system in Nebraska.

(3) It is the intent of the Legislature:

(a) To ensure that fair rates continue into the future to stem attrition of foster parents and to recruit, support, and maintain high-quality foster parents;

(b) That foster care reimbursement rates accurately reflect the cost of raising the child in the care of the state;

(c) To ensure that contracted foster care service provider agencies do not pay increased rates out of budgets determined in contracts with the Department of Health and Human Services prior to any change in rates;

(d) To maintain comparable foster care reimbursement rates to ensure retention and recruitment of high-quality foster parents and to ensure that foster children's best interests are served; and

(e) To appropriate funds to permanently replace the bridge funding described in subsection (1) of this section and provide the necessary additional funds to bring foster care reimbursement rates in compliance with the recommendations of the research and study completed by the Foster Care Reimbursement Rate Committee as required pursuant to section 43-4212 as such section existed before the effective date of this act.

Sec. 2. (1) On or before July 1, 2014, the Division of Children and Family Services of the Department of Health and Human Services shall implement the reimbursement rate recommendations of the Foster Care Reimbursement Rate Committee as reported to the Legislature pursuant to section 43-4212 as such section existed before the effective date of this act.

(2)(a) On or before July 1, 2013, the Division of Children and Family Services of the Department of Health and Human Services shall develop a pilot project as provided in this subsection to implement the standardized level of care assessment tools recommended by the Foster Care Reimbursement Rate Committee as reported to the Legislature pursuant to section 43-4212 as such section existed before the effective date of this act.

(b)(i) The pilot project shall comprise two groups: One in an urban area and one in a rural area. The size of each group shall be determined by the division to ensure an accurate estimate of the effectiveness and cost of implementing such tools statewide.

(ii) The Nebraska Children's Commission shall review and provide a progress report on the pilot project by October 1, 2013, to the department and electronically to the Health and Human Services Committee of the Legislature; shall provide to the department and electronically to the committee by December 1, 2013, a report including recommendations and any legislation necessary, including appropriations, to adopt the recommendations, regarding the adaptation or continuation of the implementation of a statewide standardized level of care assessment; and shall provide to the department and

electronically to the committee by February 1, 2014, a final report and final recommendations of the commission.

Sec. 3. (1) On or before January 1, 2016, the Nebraska Children's Commission shall appoint a Foster Care Reimbursement Rate Committee. The commission shall reconvene the Foster Care Reimbursement Rate Committee every four years thereafter.

(2) The Foster Care Reimbursement Rate Committee shall consist of no fewer than nine members, including:

(a) The following voting members: (i) Representatives from a child welfare agency that contracts directly with foster parents, from each of the service areas designated pursuant to section 81-3116; (ii) a representative from an advocacy organization which deals with legal and policy issues that include child welfare; (iii) a representative from an advocacy organization, the singular focus of which is issues impacting children; (iv) a representative from a foster and adoptive parent association; (v) a representative from a lead agency; (vi) a representative from a child advocacy organization that supports young adults who were in foster care as children; (vii) a foster parent who contracts directly with the Department of Health and Human Services; and (viii) a foster parent who contracts with a child welfare agency; and

(b) The following nonvoting, ex officio members: (i) The chief executive officer of the Department of Health and Human Services or his or her designee and (ii) representatives from the Division of Children and Family Services of the department from each service area designated pursuant to section 81-3116, including at least one division employee with a thorough understanding of the current foster care payment system and at least one division employee with a thorough understanding of the N-FOCUS electronic data collection system. The nonvoting, ex officio members of the committee may attend committee meetings and participate in discussions of the committee and shall gather and provide information to the committee on the policies, programs, and processes of each of their respective bodies. The nonvoting, ex officio members shall not vote on decisions or recommendations by the committee.

(3) Members of the committee shall serve for terms of four years and until their successors are appointed and qualified. The Nebraska Children's Commission shall appoint the chairperson of the committee and may fill vacancies on the committee as they occur. If the Nebraska Children's Commission has terminated, such appointments shall be made and vacancies filled by the Governor with the approval of a majority of the Legislature.

Sec. 4. (1) The Foster Care Reimbursement Rate Committee appointed pursuant to section 3 of this act shall review and make recommendations in the following areas: Foster care reimbursement rates, the statewide standardized level of care assessment, and adoption assistance payments as required by section 43-117. In making recommendations to the Legislature, the committee shall use the then-current foster care reimbursement rates as the beginning standard for setting reimbursement rates. The committee shall adjust the standard to reflect the reasonable cost of achieving measurable outcomes for all children in foster care in Nebraska. The committee shall (a) analyze then-current consumer expenditure data reflecting the costs of caring for a child in Nebraska, (b) identify and account for additional costs specific to children in foster care, and (c) apply a geographic cost-of-living adjustment for Nebraska. The reimbursement rate structure shall comply with funding requirements related to Title IV-E of the federal Social Security Act, as amended, and other federal programs as appropriate to maximize the utilization of federal funds to support foster care.

(2) The committee shall review the role and effectiveness of and make recommendations on the statewide standardized level of care assessment containing standardized criteria to determine a foster child's placement needs and to identify the appropriate foster care reimbursement rate. The committee shall review other states' assessment models and foster care reimbursement rate structures in completing the statewide standardized level of care assessment review and the standard statewide foster care reimbursement rate structure. The committee shall ensure the statewide standardized level of care assessment and the standard statewide foster care reimbursement rate structure provide incentives to tie performance in achieving the goals of safety, maintaining family connection, permanency, stability, and well-being to reimbursements received. The committee shall review and make recommendations on assistance payments to adoptive parents as required by section 43-117. The committee shall make recommendations to ensure that changes in foster care reimbursement rates do not become a disincentive to permanency.

(3) The committee may organize subcommittees as it deems necessary. Members of the subcommittees may be members of the committee

or may be appointed, with the approval of the majority of the committee, from individuals with knowledge of the subcommittee's subject matter, professional expertise to assist the subcommittee in completing its assigned responsibilities, and the ability to collaborate within the subcommittee.

(4) The Foster Care Reimbursement Rate Committee shall provide electronic reports with its recommendation to the Health and Human Services Committee of the Legislature on July 1, 2016, and every four years thereafter.

Sec. 5. Section 43-4202, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-4202 (1) The Nebraska Children's Commission is created as a high-level leadership body to (a) create a statewide strategic plan for reform of the child welfare system programs and services in the State of Nebraska and (b) review the operations of the Department of Health and Human Services regarding child welfare programs and services and recommend, as a part of the statewide strategic plan, options for attaining the legislative intent stated in section 43-4201, either by the establishment of a new division within the department or the establishment of a new state agency to provide all child welfare programs and services which are the responsibility of the state. The commission shall provide a permanent forum for collaboration among state, local, community, public, and private stakeholders in child welfare programs and services.

(2) The commission shall include the following voting members:

(a) The chief executive officer of the Department of Health and Human Services or his or her designee;

(b) The Director of Children and Family Services or his or her designee; and

(c) Sixteen members appointed by the Governor within thirty days after April 12, 2012. The members appointed pursuant to this subdivision shall represent stakeholders in the child welfare system and shall include: (i) A director of a child advocacy center; (ii) an administrator of a behavioral health region established pursuant to section 71-807; (iii) a community representative from each of the service areas designated pursuant to section 81-3116. In the eastern service area designated pursuant to such section, the representative may be from a lead agency of a pilot project established under Legislative Bill 961, One Hundred Second Legislature, Second Session, 2012, section 68-1212 or a collaborative member; (iv) a prosecuting attorney who practices in juvenile court; (v) a guardian ad litem; (vi) a biological parent currently or previously involved in the child welfare system; (vii) a foster parent; (viii) a court-appointed special advocate volunteer; (ix) a member of the State Foster Care Review Board or any entity that succeeds to the powers and duties of the board or a member of a local foster care review board; (x) a child welfare service agency that directly provides a wide range of child welfare services and is not a member of a lead agency collaborative; (xi) a young adult previously in foster care; and (xii) a representative of a child advocacy organization that deals with legal and policy issues that include child welfare.

(3) The commission shall have the following nonvoting, ex officio members: (a) The chairperson of the Health and Human Services Committee of the Legislature or a committee member designated by the chairperson; (b) the chairperson of the Judiciary Committee of the Legislature or a committee member designated by the chairperson; (c) the chairperson of the Appropriations Committee of the Legislature or a committee member designated by the chairperson; and (d) three persons appointed by the State Court Administrator. The nonvoting, ex officio members may attend commission meetings and participate in the discussions of the commission, provide information to the commission on the policies, programs, and processes of each of their respective bodies, gather information for the commission, and provide information back to their respective bodies from the commission. The nonvoting, ex officio members shall not vote on decisions by the commission or on the direction or development of the statewide strategic plan pursuant to section 43-4204.

(4) The commission shall meet within sixty days after April 12, 2012, and shall select from among its members a chairperson and vice-chairperson and conduct any other business necessary to the organization of the commission. The commission shall meet not less often than once every three months, and meetings of the commission may be held at any time on the call of the chairperson. The commission shall be within the office of the chief executive officer of the Department of Health and Human Services. The commission may hire staff to carry out the responsibilities of the commission. The commission shall hire a consultant with experience in facilitating strategic planning to provide neutral, independent assistance in developing the statewide strategic plan. The commission shall terminate on June 30, 2014,

2016, unless continued by the Legislature.

(5) Members of the commission shall be reimbursed for their actual and necessary expenses as members of such commission as provided in sections 81-1174 to 81-1177.

Sec. 6. Section 43-4203, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-4203 (1) The Nebraska Children's Commission shall work with administrators from each of the service areas designated pursuant to section 81-3116, the teams created pursuant to section 28-728, local foster care review boards, child advocacy centers, the teams created pursuant to the Supreme Court's Through the Eyes of the Child Initiative, community stakeholders, and advocates for child welfare programs and services to establish networks in each of such service areas. Such networks shall permit collaboration to strengthen the continuum of services available to child welfare agencies and to provide resources for children and juveniles outside the child protection system. Each service area shall develop its own unique strategies to be included in the statewide strategic plan. The Department of Health and Human Services shall assist in identifying the needs of each service area.

(2) (a) The commission shall create a committee to examine state policy regarding the prescription of psychotropic drugs for children who are wards of the state and the administration of such drugs to such children. Such committee shall review the policy and procedures for prescribing and administering such drugs and make recommendations to the commission for changes in such policy and procedures.

(b) The commission shall create a committee to examine the structure and responsibilities of the Office of Juvenile Services as they exist on April 12, 2012. Such committee shall review the role and effectiveness of the youth rehabilitation and treatment centers in the juvenile justice system and make recommendations to the commission on the future role of the youth rehabilitation and treatment centers in the juvenile justice continuum of care. Such committee shall also review the responsibilities of the Administrator of the Office of Juvenile Services, including oversight of the youth rehabilitation and treatment centers and juvenile parole, and make recommendations to the commission relating to the future responsibilities of the administrator.

(c) The commission may organize committees as it deems necessary. Members of the committees may be members of the commission or may be appointed, with the approval of the majority of the commission, from individuals with knowledge of the committee's subject matter, professional expertise to assist the committee in completing its assigned responsibilities, and the ability to collaborate within the committee and with the commission to carry out the powers and duties of the commission.

(d) ~~If the One Hundred Second Legislature, Second Session, 2012, creates the The Title IV-E Demonstration Project Committee ~~or~~ and the Foster Care Reimbursement Rate Committee, ~~or both~~, such committees shall be under the jurisdiction of the commission.~~

(3) The commission shall work with the office of the State Court Administrator, as appropriate, and entities which coordinate facilitated conferencing as described in section 43-247.01. Facilitated conferencing shall be included in statewide strategic plan discussions by the commission. Facilitated conferencing shall continue to be utilized and maximized, as determined by the court of jurisdiction, during the development of the statewide strategic plan. Funding and contracting of facilitated conferencing entities shall continue to be provided by the Department of Health and Human Services to at least the same extent as such funding and contracting are being provided on April 12, 2012.

(4) The commission shall gather information and communicate with juvenile justice specialists of the Office of Probation Administration and county officials with respect to any county-operated practice model participating in the Crossover Youth Program of the Center for Juvenile Justice Reform at Georgetown University.

(5) ~~If the Nebraska Juvenile Service Delivery Project is enacted by the One Hundred Second Legislature, Second Session, 2012, the The commission shall coordinate and gather information about the progress and outcomes of the ~~project.~~ Nebraska Juvenile Service Delivery Project.~~

Sec. 7. Section 43-4213, Revised Statutes Cumulative Supplement, 2012, is amended to read:

43-4213 In recognition of Nebraska foster parents' essential contribution to the safety and well-being of Nebraska's foster children and the need for additional compensation for the services provided by Nebraska foster parents, ~~while the Foster Care Reimbursement Rate Committee~~

~~completes its duties under section 43-4212,~~ beginning July 1, 2012, through June 30, ~~2013,~~ 2014, all foster parents providing foster care in Nebraska, including traditional, agency-based, licensed, approved, relative placement, and child-specific foster care, shall receive an additional stipend of three dollars and ten cents per day per child. The stipend shall be in addition to the current foster care reimbursement rates for relatives and foster parents contracting with the Department of Health and Human Services and in addition to the relative and tiered rate paid to a contractor for agency-based foster parents. The additional stipend shall be paid monthly through the agency that is contracting with the foster parent or, in the case of a foster parent contracting with the department, directly from the department. The contracting agency shall receive an administrative fee of twenty-five cents per child per day for processing the payments for the benefit of the foster parents and the state, which administrative fee shall be paid monthly by the state. The administrative fee shall not reduce the stipend of three dollars and ten cents provided by this section.

Sec. 8. Original sections 43-4202, 43-4203, and 43-4213, Revised Statutes Cumulative Supplement, 2012, are repealed.

Sec. 9. The following section is outright repealed: Section 43-4212, Revised Statutes Cumulative Supplement, 2012.

Sec. 10. Since an emergency exists, this act takes effect when passed and approved according to law.